IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.23191 of 2004

Between:

M/s. Sri Sai Ram Enterprises Stone Crusher, kammarapally Village & Mandal, Nizamabad District,
rep. by its Managing Partner, B. Sugunakar Rao, S/o. Rama Rao, R/o. Jagtial, Karimnagar District.

..... PETITIONER

AND

The Asst. Provident Fund Commissioner (ENF), Sub Regional Office, Nyalkal road, Nizamabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to Issue an appropriate Writ, Order or direction particularly one in the nature of Writ of Mandamus, declaring impugned order of the Respondent dt. 29.11.2004 vide proceedings No. AP/SRO/NZB/ENF/7B/34183/2004/1041, in rejecting the Review Application of the orders passed under Section 7-A of Employees Provident Fund and Miscellaneous Provisions Act, 1952 in Proceedings Nos.AP/SRO/NZB/ENF/7A/34183/2004/2364, dated 21.4.2003, AP/SRO/NZB/ENF/7A/34183/2004/3723, dated 28.1.2004, and AP/SRO/NZB/ENF/7A/34183/2004/1107, dated 23.11.2004, as arbitrary, illegal, unjust and violative of principles of natural justice and consequently set aside the same and consequently direct the respondent to afford the opportunity of hearing to the petitioner on Review Application.

Counsel for the Petitioner: MR.P.RAMABHOOPAL REDDY

Counsel for the Respondent: Ms. Ch. Lakshmi Kumari

The Court at the stage of admission made the following :

ORDER:

Challenging the proceedings of the respondent-Assistant Provident Fund Commissioner, vide No.AP/SRO/NZB/Enf./7B/34183/2004/1041, dated 29.11.2004, rejecting the review application filed by the petitioner against the orders passed under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short "the Act"), the present writ petition is filed.

The facts that are necessary for disposal of the writ petition are that the petitioner-Unit having been engaged in Stone crushing operations comes within the provisions of the Employees Provident Fund Act. It is stated that the petitioner-Unit was closed in the year 2000 due to insufficient orders from the customers. When the petitioner failed to make provident fund and other statutory contributions, the respondent-Assistant Provident Fund Commissioner issued notices to the petitioner vide proceedings Nos.AP/SRO/NZB/ENF/7A/34183/2004/2364 dated 21.04.2003; AP/SRO/NZB/ENF/7A/34183/2004/3723 dated 28.01.2004 and AP/SRO/NZB/ENF/7A/34183/2004/1107, dated 23.11.2004 under Section 7-A of the Act, calling upon it to pay the contributions to the tune of Rs.1,42,117/-, Rs.46,680/- and Rs.6,680/- respectively.

The main grievance of the petitioner is that as against the said orders, the petitioner filed a review application before the respondent-Assistant Provident Fund Commissioner (ENF), Nizambad, on 17.11.2004 and the respondent without giving any notice and affording any opportunity of hearing to the petitioner, passed the impugned order dated 29.11.2004 rejecting the review application. Hence, the writ

petition.

Heard the learned counsel for the petitioner and learned counsel for the respondent. Both the counsel agreed for disposal of the writ petition at the stage of admission.

Learned counsel for the petitioner submits that there is sufficient material to defend the case of the petitioner, but the respondent without affording any opportunity of hearing to the petitioner, rejected the review application filed on 17.11.2004. Learned counsel for the petitioner also submits that the petitioner is ready to deposit an amount of Rs.1,00,000/- pursuant to the demand notices dated 21.04.2003, 28.01.2004 and 23.11.2004.

Having regard to the facts and circumstances of the case, and in view of the willingness of the petitioner to deposit certain amount pursuant to the impugned demand notices, I am not inclined to go into the merits of the case. However, the petitioner is directed to deposit Rs.1,00,000/- (Rupees One Lakh only) with the respondent-Assistant Provident Fund Commissioner, Nizambad within two weeks from today. On such deposit, the respondent is directed to reconsider the review application, said to have been filed by the petitioner on 17.11.2004, after affording sufficient opportunity of being heard to the petitioner including the documents, if any, to be produced by the petitioner in support of its claim and then pass appropriate orders in accordance with law. It is made clear that, if the petitioner fails to deposit the said amount within the time stipulated above, the respondent authority is at liberty to execute the impugned orders.

With the above observations, the writ petition is disposed of at the stage of admission.

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(N.V. RAMANA, J)

Date: 15.12.2004

Nsr/Bsc

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Asst. Provident Fund Commissioner (ENF), Sub Regional Office,

Nyalkal road, Nizamabad.

2. Two CD copies.